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October 15, 2024

VIA ECF

The Honorable Cathy Seibel
United States District Judge
Southern District of New York
The Honorable Charles L. Brieant Jr.
Federal Building and United States Courthouse
300 Quarropas Street
White Plains, New York 10601

Re: *United States v. Frank Butselaar*
S1 22 Cr. 560 (CS)
Clarification of Government Submission Dated October 15, 2024

Dear Judge Seibel:

We write solely for the purpose of correcting an error in the Government's submission dated October 15, 2024.

The Government states that it, "has disclosed this list of co-conspirators and its preliminary witness list in advance of this Court's [sic] and this issue is thus moot." In the corresponding footnote, the Government represents to the Court that, "without obligation, and *only as a professional courtesy*, the Government has made these disclosures [of the co-conspirators]." Gov't. Submission (October 15, 2024) at 4, fn. 1 (emphasis supplied).

This statement by the Government is factually inaccurate. The Government only provided Mr. Butselaar with the identities of four co-conspirators contemporaneously with its October 15th submission to the Court after insisting on a *quid pro quo* from Mr. Butselaar. Specifically, the Government refused to provide this information unless Mr. Butselaar agreed to enter into certain evidentiary stipulations that the Government sought. The Government's demands were made orally and memorialized in email correspondence.

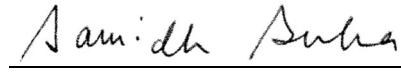
Counsel for Mr. Butselaar relented to the Government's proposed transaction due to the time and resource pressures of the upcoming trial in less than three weeks. Counsel expressly advised the Government of this reason for its concession. For the avoidance of doubt, there is extensive case law from this District outlining the factors warranting disclosure of co-conspirator identities, virtually all of which would have supported Mr. Butselaar's request. See e.g., *United States v. Turkish*, 458 F. Supp. 874 (S.D.N.Y. 1978); *United States v. Maxwell*, No. 20 Cr. 330 (AJN) (S.D.N.Y. Sept. 3, 2021) (ordering the Government to disclose previously unnamed co-conspirators).

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Mr. Butselaar was and remains prepared to move on from this issue in the interest of allocating his limited resources in a manner most beneficial to his defense. We write solely to correct the mistaken record created by the Government's October 15th submission.

Thank you for Your Honor's consideration of this matter.

Sincerely,



Samidh Guha
Kerry A. Lawrence
Diane Fischer

Counsel for Frank Butselaar